



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

BARBARA D. UNDERWOOD  
ATTORNEY GENERAL

Writer's Direct Dial: (212) 416-6035

DIVISION OF STATE COUNSEL  
LITIGATION BUREAU

October 4, 2018

**By ECF**

The Honorable Alison J. Nathan  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, NY 10007

Re: *Thomas v. Five Start Electric, et al.*, 18 Civ. 3691 (AJN) (RWL)

Dear Judge Nathan:

This Office will be representing Defendant, the New York State Division of Human Rights (“DHR”) in the above-referenced action.

This Office recently learned that there is a docket entry indicating that a “Summons and Complaint” in this action were “served on 7/11/2018, answer due 8/1/2018.” *See* ECF No. 5. This entry is in error, however, as DHR has not been properly served with a summons and amended complaint as of this writing. Instead, Plaintiff sent two separate copies of the summons and complaint to DHR by U.S.P.S. Priority Mail, dated July 24 and July 25, 2018.<sup>1</sup> However, Plaintiff did not include a waiver request pursuant to Fed. R. Civ. P. 4(d), nor did he serve our Office, which is required to effectuate service on a State agency by mail. *See* Fed. R. Civ. P. 4(j)(2); CPLR 307. Moreover, Plaintiff never attempted service of the amended complaint by any means. *See* ECF No. 9 (amended complaint filed on July 24, 2018). Therefore, there has not been proper or effective service under the applicable rules.

Accordingly, I write on behalf of DHR to respectfully request that the docket be corrected and that DHR’s time to answer, move or otherwise respond to the amended complaint be stayed pending proper and effective service of the amended complaint.

---

<sup>1</sup> Although Plaintiff indicated that he served the summons, without the complaint, by hand delivery on July 11, 2018 (ECF No. 10), DHR has no record of such service.

Hon. Alison J. Nathan

October 4, 2018

Page 2 of 2

Thank you for your time and consideration of these requests.

Respectfully submitted,

/s/Alissa S. Wright

Alissa S. Wright  
Assistant Attorney General

cc: Plaintiff, *pro se* (by U.S.P.S. overnight express mail)  
Counsel for Defendants Listed on ECF (by ECF)